

### **REMARKS**

Claims 1-23 are now pending in the application. Claims 1-23 stand rejected. Claims 1, 12, 22 and 23 have been amended herein. Support for the amendments can be found throughout the application, drawings and claims as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 101**

Claims 1 and 22 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to nonstatutory subject matter, e.g., "natural structure," the claimed invention impermissibly covers the substantial practical application of, and thereby preempt all use of, natural phenomenon, or law of nature. Applicant has amended Claims 1 and 22 to overcome this rejection. Therefore, reconsideration and withdrawal of the rejection of Claims 1 and 22 under 35 U.S.C. § 101 are respectfully requested.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-5, 7, 9-10, 12-14, 16, 21 and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bhatia (U.S. Pat. No. 6,052,591; hereinafter "Bhatia"). This rejection is respectfully traversed.

Initially, Applicant notes that Bhatia appears to disclose a system for transmitting a message to various cellular phone subscribers that exist within defined geographic regions. Bhatia discloses that the geographic regions for transmission of the message

are identified by a Mobile Subscriber Integrated Service Digital Network (MSISDN) number and a wireline directory number associated with a mobile switching system (MSC) or a base station controller (BSC) coverage area. The wireline directory number is a numeric code (such as an area code) associated with the coverage area of the MSC or BSC, which is defined by the signal transmission range of the cellular tower, and the MSISDN is a unique number given to each cellular phone in the network. Thus, Bhatia teaches the transmission of messages to structured geographic regions identified with reference to a government identification number (area code) and a unique number associated with the cellular phone. In contrast, independent Claim 1 has been amended to recite:

...designating an arbitrary geographic region to transmit the message to by reference to a **physical structure** within the geographic region...(emphasis added).

Independent Claim 12 has been amended to recite:

...the transmitter enables reception of a message and a geographic destination designator that designates a geographic destination for the message, and further enables access to the geospatial database to identify the addresses of the receivers in the geographic destination to transmit the message to the identified receivers within that geographic destination based on the reported address for each said identified receiver, the geographic destination comprising a geographic region defined by reference to one or more **physical structures** within the geographic region (emphasis added).

Independent Claim 23 has been amended to recite:

...(1) designating a geographic region for receipt of the message by reference to a plurality of **physical structures** in the geographic region...(emphasis added).

In view of the above discussion, Applicant respectfully asserts that Bhatia does not teach, suggest or disclose each and every element of Claims 1, 12 and 23, and thus, Bhatia does not anticipate Claims 1, 12 and 23. It is well settled that a *prima facie* case of anticipation requires “the presence in a single prior art reference disclosure of *each and every element* of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983) (emphasis added). Further, the Federal Circuit has stated that “there must be **no difference** between the claimed invention and the reference disclosure” from the perspective of one with ordinary skill in the art. *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991) (emphasis added).

In this regard, Bhatia is different from the present application in that Bhatia does not teach, suggest or disclose designating an **arbitrary** geographic region to transmit the message to by reference to a **physical structure** within the geographic region, or a geographic destination that comprises a geographic region defined by reference to one or more **physical structures** within the geographic region. Bhatia also does not teach, suggest or disclose designating a geographic region for receipt of the message by reference to a plurality of **physical structures** in the geographic region.

Rather, Bhatia discloses the use of geographical areas that are inflexibly pre-set (hard-coded). The geographical areas of Bhatia are inflexibly pre-set because they are defined by reference to cellular phone coverage areas that are themselves defined by the signal transmission range of specific cellular towers. By contrast, the geographical

areas as claimed are arbitrarily sized, of arbitrary shape and of arbitrary location (i.e., may be anywhere in the world (land, sea, in the air)) with no required dependency to reference specific pre-set coverage areas (e.g., no concept of cellular towers). Further, reference is made to Table 1, which outlines the differences between Bhatia and the present application.

Table 1: Comparison of Bhatia to the present application

|                                      | <b>Bhatia (Patent No. 6,052,591)</b>  | <b>Present Application (Serial No. 10/698,800)</b>   |
|--------------------------------------|---|--|
| Network environment                  | Stable network infrastructure is deployed and engineered for specific geographic context  | The devices themselves self-create and constitute their own networks which are transient infrastructures that modify and adapt themselves as the participants move relative to each other.   |
| Underlying philosophical orientation | Mobile users move across a stable network environment that is hardwired and engineered to support movement. The mobile user uses omni-directional wireless waveforms but the stable end systems that enable that communication usually use wired media (e.g., fiber). | Mobile users create their own network environment which constantly varies as the entities move relative to each other. Any network stability is transitory. All communications are wireless. |
| Concept of geographic area           | Defined by the cell transmission range which is pre-set and hard coded. They are pre-set and pre-determined.  | Geographical areas may be any shape and any dimension – totally fluid and arbitrary.   |

As evidenced above, Bhatia is different from the present application as claimed in that Bhatia does not teach, suggest or disclose the use of an arbitrary geographic area that is defined with reference to physical structures within the geographic area. Rather, Bhatia discloses the use of fixed cellular areas to define the geographic areas. Further, as shown in Table 1, it would be improper to modify Bhatia to include a

geographic area that is defined with reference to physical structures as it would impermissibly modify the method of operation of Bhatia.

Accordingly, as Bhatia fails to teach, suggest and disclose each and every element of Claims 1, 12 and 23, Applicant respectfully requests the Office to reconsider and withdraw the rejection of Claims 1, 12 and 23 under 35 U.S.C. § 102(b). Further, since Claims 2-5, 7, 9, 10, 12, 14, 16 and 21 depend from either independent Claim 1 or 12, Claims 2-5, 7, 9, 10, 12, 14, 16 and 21 should be in condition for allowance for at least the reasons set forth for Claims 1, 12 and 23 above. Accordingly, Applicant respectfully requests the Office reconsider and withdraw the rejections of Claims 2-5, 7, 9, 10, 12, 14, 16 and 21 under 35 U.S.C. § 102(b).

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 6 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia in view of Weisshaar et al. (U.S. Pat. No. 6,580,916; hereinafter "Weisshaar"). Claims 8 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia in view of Ogasawara et al. (U.S. Pat. No. 6,947,754; hereinafter "Ogasawara"). Claims 9-10, and 18-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia in view of Jambhekar et al. (U.S. Pat. No. 6,973,318; hereinafter "Jambhekar"). Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia in view of Richard (U.S. Pat. No. 6,785,551; hereinafter "Richard").

With regard to Claims 6, 8-11, 15 and 17-20, Applicant notes these claims depend either directly or indirectly from independent Claims 1 or 12, and thus, Claims 6, 8-11, 15

and 17-20 should be in condition for allowance for at least the reasons set forth for Claims 1 and 12 above. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of Claims 6, 8-11, 15 and 17-20 under 35 U.S.C. §103(a).

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatenable over Bhatia in view of Ogasawara as applied to claims above and further in view of Weisshaar. These rejections are respectfully traversed.

Applicant refers the Office to the remarks regarding Claims 1, 12 and 23 for a discussion of the Bhatia reference. With regard to Ogasawara, Ogasawara appears to disclose a mobile station 10 that transmits a signal including a location upon receipt of a signal from a base station 21. Ogasawara designates a geographic region for transmission of the signal based on an area code associated with the base station 21. In contrast, independent Claim 22 has been amended to recite:

...the transmitter enabling operation at an OSI application level to receive a message and a geographic destination designator that designates an **arbitrarily defined** geographic destination for the message, the geographic destination defined by **at least one physical structure in the geographic destination** and that enables access to the geospatial database...(emphasis added).

In view of the above discussion, Applicant respectfully asserts that Bhatia and Ogasawara, either alone or in combination, do not teach, suggest or disclose each and every element of Claim 22. In this regard, as discussed, Bhatia does not teach, suggest or disclose an arbitrarily defined geographic destination for the message with the geographic destination defined by at least one **physical structure**. Applicant further

notes that Ogasawara does not remedy these shortcomings of Bhatia. Rather, Ogasawara discloses transmitting a message based on an area code. Applicant notes that an “area code” is significantly different from a physical structure within a geographic region, as discussed with reference to Bhatia. Further, there is no motivation to modify Bhatia or Ogasawara to include referencing at least one physical structure, as it would improperly modify the intended use and method of operation of both Bhatia and Ogasawara.

Accordingly, in view of at least the above discussion, as Bhatia and Ogasawara, alone or in combination, fail to teach, suggest and disclose each and every element of Claim 22, Applicant respectfully requests the Office to reconsider and withdraw the rejection of Claim 22 under 35 U.S.C. § 103(a).

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the

Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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